



Applicant : John V. Frangioni, et al. Art Unit : 1773
Serial No. : 10/772,425 Examiner : Hoa T. Le
Filed : February 6, 2004 Docket No.: 14952.0319
Title : MATERIALS AND METHODS FOR NEAR-INFRARED AND INFRARED LYMPH
NODE MAPPING

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TERMINAL DISCLAIMER UNDER 37 CFR §§3.73(b) AND 1.321(c)

Pursuant to 37 CFR §3.73(b), Massachusetts Institute of Technology and Beth Israel Deaconess Medical Center, Inc. certify they are the assignees of the entire right, title, and interest in the above application by virtue of assignments from the inventors of a priority application of the patent application identified above. The assignments from the inventors of the patent application identified above were recorded at the Patent and Trademark Office at reel/frame numbers 015693/0123 and 015695/0781, respectively. Copies of the recorded assignments are enclosed for reference.

Also pursuant to 37 CFR §3.73(b), Massachusetts Institute of Technology and Beth Israel Deaconess Medical Center, Inc. certify they are the assignees of the entire right, title, and interest in the above application by virtue of assignments from the inventors of a priority application of U.S. Application Serial No. 10/772,424. The assignments from the inventors of U.S. Application Serial No. 10/772,424 were recorded at the Patent and Trademark Office at reel/frame numbers 015695/0756 and 015695/0760, respectively. Copies of the recorded assignments are enclosed for reference.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in Massachusetts Institute of Technology and Beth Israel Deaconess Medical Center, Inc.

The undersigned, whose title is supplied below, is empowered to act on behalf of the assignees.

Pursuant to 37 CFR §1.321(c), and to obviate a double patenting rejection, the assignees identified above hereby waive and disclaim the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of the

U.S. Patent that issues from U.S. Application Serial No. 10/772,424 whereby the patent granted on this application and the U.S. Patent that issues from U.S. Application Serial No. 10/772,424 will expire on the same day, provided that any patent granted on the above identified application shall be enforceable only for and during such period that it is commonly owned with the U.S. Patent that issues from U.S. Application Serial No. 10/772,424.

The assignees identified above do not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of the U.S. Patent that issues from U.S. Application Serial No. 10/772,424 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Assignees herein do not disclaim or otherwise affect any part of the U.S. Patent that issues from U.S. Application Serial No. 10/772,424.

This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

Please apply any charges or credits to deposit account 19-4293, referencing Attorney Docket No. **14952.0319**.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: 9-8-06



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